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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/716,869

11/20/2003

William B. Pendergrass

956-282

5649

23424

7590

08/11/2006

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EXAMINER

NGO, LIEN M

ART UNIT

PAPER NUMBER

3754

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/716,869	<b>Applicant(s)</b> PENDERGRASS ET AL.	
	<b>Examiner</b> LIEN TM NGO	<b>Art Unit</b> 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 39 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-22, 28-33, 36 and 37 is/are rejected.
- 7) ☒ Claim(s) 6, 23-27, 34, 35 and 38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5 and 7-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Naval et al. (6,196,411). Naval et al. disclose, in figs. 37 and 38, A drinking cup lid comprising a raised central plateau 1311 with ridges adapted to receive a promotional game piece, said central plateau having an outer sidewall, the outer sidewall including a circumferential beveled segment 1321 extending along a portion of the outer sidewall, the circumferential beveled segment angled with respect to the outer sidewall, and a circumferential rim. The plateau includes a planar annular upper wall and a recessed well 1312.1, a straw opening co-located within the recessed well, an annular trough 1212 (see fig. 35) with a top wall surrounding the trough, and a game piece 1316 affixed to the central plateau and having an opening alignment with the straw opening.

1. Claims 14 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Reidinger et al. (6,311,860). Reidinger et al. disclose, in fig. 5, a drinking cup lid comprising an annular circumferential rim, a recessed well 46 having a bottom wall 44, a promotional game piece 60 affixed to the lid so as to cover the recessed well in spaced relationship to the bottom wall. Examiner notes that no further structural limitations in the claims to require for the game piece to distinguish it with the cover

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member 60 in the Reidinger et al., which one ordinary skill in the art can consider the cover member 60 as a portion of a promotional game piece to cover a game hidden in the recessed well.

2. Claims 14-21 and 28-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Nava et al. (6,196,411). Nava et al. disclose, in figs. 1, 2 and 19-21, a drinking cup lid 12, 512 comprising an annular circumferential rim 23, 512', a recessed well 12.1, 212.1 having a bottom wall, a promotional game piece 14, 514 affixed to the lid so as to cover the recessed well in spaced relationship to the bottom wall; wherein the raised plateau comprises a straw opening 24.1, 540 in the form of a cross-cut opening, and the game piece 14, 514 comprises a straw aperture 542 in the form of a cross-cut opening. The lid further comprises an annular trough 523 surrounding the plateau and annular raised segments 532 positioned within the trough. Examiner notes that no further structural limitations in the claims to require for the game piece to distinguish it with the cover member 14, 414 in the Nava et al., which one ordinary skill in the art can consider the cover member 14, 414 as a portion of a promotional game piece to cover a game hidden in the recessed well.

3. Claims 14, 15, 19-22, 28, 31-33, 36 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Nava et al. (6,196,411). Nava et al. disclose, in figs. 45-49, a drinking cup lid 1710 comprising an annular circumferential rim 1712, a recessed well having a bottom wall, a promotional game piece 1714 affixed to the lid so as to cover the recessed well in spaced relationship to the bottom wall. The lid further comprises an annular trough surrounding the plateau and annular raised segments positioned within

the trough. The raised plateau includes a circumferential beveled segment, and the game piece includes a tab 1723, which extends outwardly over the beveled segment of the raised plateau. Examiner notes that no further structural limitations in the claims to require for the game piece to distinguish it with the cover member 1714 in the Nava et al., which one ordinary skill in the art can consider the cover member 1714 as a portion of a promotional game piece to cover a game hidden in the recessed well.

***Allowable Subject Matter***

4. Claim 39 is allowed.
5. Claims 6, 23-27, 34, 35 and 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-5, 7-22, 28-33, 36 and 37 have been considered but are moot in view of the new ground(s) of rejection.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEVIN SHAVER can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LIEN TM NGO  
Primary Examiner  
Art Unit 3754

August 7, 2006

